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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAY 16 2012
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SUE BEITIA, CLERK

Appearing in Hawaii Jurisdiction Pro Hac Vice

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

VIOLETA BAUTISTA CASTILLO;
CARMELITA C. UY; JERRY
AGBANAOAG and MERLITA
AGBANAOAG; ESTEBAN AGONIAS
and ILUMINADA AGONIAS; EVELINA
ALEJANDRO; RUBEN AMBROCIO and
JUDY AMBROCIO; LANEBERT
AREOLA and EMELITA AREOLA;
TEOFILO BENICTA; MARGARITA
BUCCAT-CULBENGAN; CHARITO
CHICHIOCO; LOURDES CHUN;
JACINTE DAGDAGAN and RODELYN
DAGDAGAN; LIZZELE DULAY, CESAR
DULAY and TANYA DULAY; SULPICIO
EUGENIO and VICTORIA SANTOS;
RONNIE GRAY, LAWRENCE IMANIL,
ANNABELLE LANGCAY, RENATO
MABALLO, EDWIN MANALANG and
LETICIA MANALANG,
ELPIDIO MARQUEZ and BELLA
TOMAS MARQUEZ, NATIVIDAD
NAVARRO, ARMANDO BAUTISTA and
JUANITA BAUTISTA, ERNESTO
NAVARRO and MARIA NAVARRO,
ERIC ONG, JESUS LIM, EUFEMIA
PASTOR and CHERRY VIC PASTOR-
REGANIT, PAUL PATRICK and AQUA
PATRICK, REYNE RAMIRO and JEAN

Case No.:

COMPLAINT FOR:

1. Conversion
2. Conspiracy to Commit Conversion
3. Intentional Misrepresentation
4. Fraudulent Concealment
5. Promissory Estoppel
6. Negligent Misrepresentation
7. Breach of the Covenant of Good Faith and Fair Dealing
8. Unjust Enrichment

And Demand For Jury Trial

S. N. RAMIRO

1 **RAMIRO, CRAIG TAKUSHI and GINA**)
2 **TAKUSHI, JOCELYN ULAT and**)
3 **ALFRED ULAT, EUSTAQUIO UY,**)
4 **ILUMINADA VICTORINO, CESAR**)
5 **RAMON VIDAD and MARIA SUSANA**)
6 **VIDAD; FELICIANO DELA CRUZ and**)
7 **MARIA CORAZON DELA CRUZ; All**)
8 **Individuals, on behalf of themselves and all**)
9 **others similarly situated, and ROES 35**)
10 **through 5000, inclusive,**)

11 Plaintiff,

12 vs.

13 MORTGAGE ELECTRONIC SYSTEMS,
14 INC. aka MERS, INC.; ONE WEST BANK,
15 FSB; BANK OF AMERICA, N.A.; AAMES
16 FUNDING CORPORATION; GUILD
17 MORTGAGE COMPANY; WELLS FARGO
18 BANK, N.A.; WELLS FARGO BANK, N.A.
19 dba AMERICAN SERVICING COMPANY;
20 WELLS FARGO HOME MORTGAGE OF
21 HAWAII, LLC; HSBC MORTGAGE
22 SERVICES; WELLS FARGO HOME
23 MORTGAGE; CITIMORTGAGE, INC.;
24 FLAGSTAR BANK; LITTON LOAN
25 SERVICING, LP; ARGENT MORTGAGE
COMPANY, LLC. ; AMERIFUND
FINANCIAL, INC. dba ALL FUND
MORTGAGE; FINANCE FACTORS
LIMITED; COUNTRYWIDE HOME
LOANS, INC.; PLAZA HOME MORTGAGE,
INC.; AAMES FUNDING CORPORATION
dba AAMES HOME LOAN; PEOPLE'S
CHOICE HOME LOAN, INC.;
ACCREDITED HOME LENDERS, INC.;
WASHINGTON MUTUAL BANK, FSB;
SECURITY NATIONAL MORTGAGE
COMPANY; MORTGAGEIT, INC.; NEW
CENTURY MORTGAGE CORPORATION;
LOAN NETWORK, LLC; FREMONT
INVESTMENT AND LOAN; PINNFUND,
USA; CITIZEN MORTGAGE; FIRST
MAGNUS FINANCIAL CORPORATION;
ALLIANCE BANCORP; BNC MORTGAGE,
INC.; HOMESTREET BANK; NEW
WORLD MORTGAGE, INC. RBC

1 MORTGAGE COMPANY; MAX DEFAULT
2 SERVICES CORP.; BENEFICIAL
3 FINANCIAL I, INC.; HSBC BANK USA,
4 N.A.; THE BANK OF NEW YORK
5 MELLON; DEUTSCHE BANK, NTC;
6 LASALLE BANK, N.A.; INDYMAC INDX
7 MORTGAGE LOAN TRUST 2005-AR6;
8 BANC OF AMERICA ALTERNATIVE
9 LOAN TRUST 2006-9; BCAP LLC TRUST
10 2007-AA1; STRUCTURED ASSET
11 SECURITIES CORPORATION
12 MORTGAGE LOAN TRUST 2006-BC2;
13 HSBC HOME LOAN EQUITY TRUST 2005-
14 3; FEDERAL NATIONAL MORTGAGE
15 ASSOCIATION; FEDERAL HOME LOAN
16 MORTGAGE; ALTERNATIVE LOAN
17 TRUST 2007-8CB; WELLS FARGO
18 ALTERNATIVE LOAN 2007-PA6 TRUST;
19 CITIMORTGAGE ALTERNATIVE LOAN
20 TRUST (CMALT) SERIES 2006-A3; HSBC
21 HOME EQUITY LOAN TRUST (USA) 2006-
22 4; FREMONT HOME LOAN TRUST 2006-
23 D; PARK PLACE SECURITIES, INC.,
24 ASSET-BACKED PASS-THROUGH
25 CERTIFICATES SERIES 2005-WCW1;
ALTERNATIVE LOAN TRUST 2007-J1;
NOMURA ASSET ACCEPTANCE
CORPORATION ALTERNATIVE LOAN
TRUST, SERIES 2006-AR1; ARGENT
SECURITIES INC., ASSET-BACKED PASS-
THROUGH CERTIFICATES, SERIES 2005-
W5; ALTERNATIVE LOAN TRUST 2007-
17CB; CHL MORTGAGE PASS-THROUGH
TRUST 2005-24; IXIS REAL ESTATE
CAPITAL TRUST 2006-HE2;
CARRINGTON MORTGAGE LOAN TRUST
SERIES 2006-NC2; RASC SERIES 2005-
AHL3 TRUST; WAMU MORTGAGE PASS-
THROUGH CERTIFICATES, WMALT
SERIES 2005-8; CWABS ASSET BACKED
CERTIFICATES TRUST 2007-2; U.S.
BANK, N.A.; INDYMAC BANK, FSB;
BARCLAYS BANK, PLC; LEHMAN
BROTHERS HOLDINGS. INC.; HSBC
FINANCE CORPORATION; CWALT, INC.;
WELLS FARGO ASSET SECURITIES

1 CORPORATION; CITICORP SECURITIES
 2 INC.; FREMONT MORTGAGE
 3 SECURITIES CORPORATION; PARK
 4 PLACE SECURITIES, INC.; NOMURA
 5 ASSET ACCEPTANCE CORPORATION;
 6 STRUCTURED ASSET SECURITIES
 7 CORPORATION; CWMBS, INC.; MORGAN
 8 STANLEY ABS CAPITAL I, INC.;
 9 STANWICH ASSET ACCEPTANCE
 10 COMPANY, LLC; RESIDENTIAL ASSET
 11 SECURITIES CORPORATION;
 12 WASHINGTON MUTUAL MORTGAGE
 13 SECURITIES CORP.; CWABS, INC.;
 14 SUSAN SMOTHERS; AMBER GARCIA;
 15 BUD KAMYABI; SERENA HARMAN;
 16 RHONA M. KANINAU; TRENA
 17 PAPAGEORGE; MARIA VADNEY; KEVIN
 18 DURHAM; KEVIN PRIESHOFF; DEREK
 19 WONG; YVONNE WHEELER; KARTRYN
 20 DOI; EMILIA LARA; LORRIE WOMACK;
 21 MARTI NORIEGA; DENISE BALLEY; and
 22 DOES 1 through 1000, inclusive,

23
 24 Defendant

25
 26
 27 Now comes Plaintiffs by and through counsel, and each of them, hereby demand a jury
 28 trial and allege as follows:

29 **MULTI PLAINTIFF JOINDER COMPLAINT**
 30 **INTRODUCTION**

31 1. This lawsuit arises from, among other things: (1) the deception in inducing
 32 Plaintiffs to enter into loans and mortgages¹ from approximately 2003 through 2009 and which
 33 were acquired or are serviced by Defendants; (ii) the fraudulent and illegal use of MERS in
 34 connection with those loans and mortgages; (iii) Defendants' breach of Plaintiffs' statutorily
 35 protected rights; (iv) Defendants' breach and willful violation of numerous consumer and

1 homeowner protection statutes, and willful violations of unfair business practices statutes, by,
2 among other things, processing money from unknown sources, in contravention of the Patriot
3 Act; (v) accepting money, transferring alleged assets and foreclosing upon alleged assets in
4 instances where the alleged assets do not exist, and in which these Defendants have no right,
5 title, or interest upon which they can act; and (vi) Defendants' continuing conversion and other
6 tortuous conduct intended to deprive Plaintiffs of their money, property and legal rights and
7 remedies for the foregoing acts, as described more fully below.

8 9 **JURISDICTION AND VENUE**

10 2. This Court has jurisdiction over each of the non-domiciliary Defendants
11 because each of them transacts business within the State of New York within the meaning of
12 CPLR § 302(a)(1) and each of them committed a tortuous act inside the State of New York or
13 outside the State of New York causing injury within the State of New York within the meaning
14 of CPLR §§ 302(a) and 302(a)(3).

15 3. Venue is proper in this Court pursuant to Section 503 of the CPLR, as all
16 Defendants are either domiciled in this county, or they regularly conduct business there and
17 avail themselves of the benefits and protection of New York law there.

18 **THE PARTIES**

19 4. Plaintiff VIOLETA BAUTISTA CASTILLO is a resident of the State of
20 HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
21 herein. (This Plaintiff shall be designated as Plaintiff No. 1.).

22 5. Plaintiff CARMELITA C. UY is a resident of the State of HAWAII and had a
23 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
24 shall be designated as Plaintiff No. 2.).

1 6. Plaintiff **JERRY AGBANNAOAG** and **MERLITA AGBANNAOAG** are
2 residents of the State of HAWAII and had a mortgage loan that was originated or serviced by
3 one of the Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 3.).

4 7. Plaintiff **ESTEBAN AGONIAS** and **ILUMINADA AGONIAS** are residents
5 of the State of HAWAII and had a mortgage loan that was originated or serviced by one of the
6 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 4.).

7 8. Plaintiff **EVELINA ALEJANDRO** is a resident of the State of HAWAII and
8 had a mortgage loan that was originated or serviced by one of the Defendants herein. (This
9 Plaintiff shall be designated as Plaintiff No. 5.).

10 9. Plaintiff **RUBEN AMBROCIO** and **JUDY AMBROCIO** are residents of the
11 State of HAWAII and had a mortgage loan that was originated or serviced by one of the
12 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 6.).

13 10. Plaintiff **LANEBERT AREOLA** and **EMELITA AREOLA** are residents of
14 the State of HAWAII and had a mortgage loan that was originated or serviced by one of the
15 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 7.).

16 11. Plaintiff **TEOFILO BENICTA** is a resident of the State of HAWAII and had a
17 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
18 shall be designated as Plaintiff No. 8.).

19 12. Plaintiff **MARGARITA BUCCAT-CULBENGAN** are residents of the State
20 of HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
21 herein. (This Plaintiff shall be designated as Plaintiff No. 9.).

22 13. Plaintiff **CHARITO CHICHIOCO** is a resident of the State of HAWAII and
23 had a mortgage loan that was originated or serviced by one of the Defendants herein. (This
24 Plaintiff shall be designated as Plaintiff No. 10.).

1 14. Plaintiff **LOURDES CHUN** is a resident of the State of HAWAII and had a
2 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
3 shall be designated as Plaintiff No. 11.).

4 15. Plaintiff **JACINTE DAGDAGAN and RODELYN DAGDAGAN** is a
5 resident of the State of HAWAII and had a mortgage loan that was originated or serviced by
6 one of the Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 12.).

7 16. Plaintiff **LIZZELE DULAY** is a resident of the State of HAWAII and had a
8 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
9 shall be designated as Plaintiff No. 13.).

10 17. Plaintiff **CESAR DULAY and TANYA DULAY** are residents of the State of
11 HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
12 herein. (This Plaintiff shall be designated as Plaintiff No. 14.).

13 18. Plaintiff **SULPICIO EUGENIO and VICTORIA SANTOS** are residents of
14 the State of HAWAII and had a mortgage loan that was originated or serviced by one of the
15 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 15.).

16 19. Plaintiff **RONNIE GRAY** is a resident of the State of HAWAII and had a
17 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
18 shall be designated as Plaintiff No. 16.).

19 20. Plaintiff **LAWRENCE IMANIL** is a resident of the State of HAWAII and had
20 a mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
21 shall be designated as Plaintiff No. 17.).

22 21. Plaintiff **ANNABELLE LANGCAY** is a resident of the State of HAWAII and
23 had a mortgage loan that was originated or serviced by one of the Defendants herein. (This
24 Plaintiff shall be designated as Plaintiff No. 18.).

1 22. Plaintiff **RENATO MABALLO** is a resident of the State of HAWAII and had a
2 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
3 shall be designated as Plaintiff No. 19.).

4 23. Plaintiff **EDWIN MANALANG and LETICIA MANALANG** is a resident of
5 the State of HAWAII and had a mortgage loan that was originated or serviced by one of the
6 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 20.).

7 24. Plaintiff **ELPIDIO MARQUEZ and BELLA TOMAS MARQUEZ** are
8 residents of the State of HAWAII and had a mortgage loan that was originated or serviced by
9 one of the Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 21.).

10 25. Plaintiff **NATIVIDAD NAVARRO** is a resident of the State of HAWAII and
11 had a mortgage loan that was originated or serviced by one of the Defendants herein. (This
12 Plaintiff shall be designated as Plaintiff No. 22.).

13 26. Plaintiff **ARMANDO BAUTISTA and JUANITA BAUTISTA** are residents
14 of the State of HAWAII and had a mortgage loan that was originated or serviced by one of the
15 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 23.).

16 27. Plaintiff **ERNESTO NAVARRO and MARIA NAVARRO** are residents of
17 the State of HAWAII and had a mortgage loan that was originated or serviced by one of the
18 Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 24.).

19 28. Plaintiff **ERIC ONG and JESUS LIM** are residents of the State of HAWAII
20 and had a mortgage loan that was originated or serviced by one of the Defendants herein. (This
21 Plaintiff shall be designated as Plaintiff No. 25.).

22 29. Plaintiff **EUFEMIA PASTOR and CHERRY VIC PASTOR-REGANIT** is a
23 resident of the State of HAWAII and had a mortgage loan that was originated or serviced by
24 one of the Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 26.).
25

1 30. Plaintiff **PAUL PATRICK and AQUA PATRICK** is a resident of the State of
2 HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
3 herein. (This Plaintiff shall be designated as Plaintiff No. 27.).

4 31. Plaintiff **REYNE RAMIRO and JEAN RAMIRO** are residents of the State of
5 HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
6 herein. (This Plaintiff shall be designated as Plaintiff No. 28.).

7 32. Plaintiff **CRAIG TAKUSHI and GINA TAKUSHI** are residents of the State
8 of HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
9 herein. (This Plaintiff shall be designated as Plaintiff No. 29.).

10 33. Plaintiff **JOCELYN ULAT and ALFRED ULAT** is a resident of the State of
11 HAWAII and had a mortgage loan that was originated or serviced by one of the Defendants
12 herein. (This Plaintiff shall be designated as Plaintiff No. 30.).

13 34. Plaintiff **EUSTAQUIO UY** is a resident of the State of HAWAII and had a
14 mortgage loan that was originated or serviced by one of the Defendants herein. (This Plaintiff
15 shall be designated as Plaintiff No. 31.).

16 35. Plaintiff **ILUMINADA VICTORINO** is a resident of the State of HAWAII
17 and had a mortgage loan that was originated or serviced by one of the Defendants herein. (This
18 Plaintiff shall be designated as Plaintiff No. 32.).

19 36. Plaintiff **CESAR RAMON VIDAD and MARIA SUSANA VIDAD** are
20 residents of the State of HAWAII and had a mortgage loan that was originated or serviced by
21 one of the Defendants herein. (This Plaintiff shall be designated as Plaintiff No. 33.).

22 37. Plaintiff **FELICIANO DELA CRUZ and MARIA CORAZON DELA**
23 **CRUZ** are residents of the State of HAWAII and had a mortgage loan that was originated or
24 serviced by one of the Defendants herein. (This Plaintiff shall be designated as Plaintiff No.
25 34.)

1 38. Each Plaintiff herein had ownership and possession of funds – material to the
2 allegations herein – in a sum more than \$75,000.00, as of January 23, 2003 to December 31,
3 2009.

4 39. Each Plaintiff worked hard for these funds and earned them, paid state and
5 federal taxes on them, and had the exclusive dominion and control over them.

6 40. Through the wrongful conduct set forth in this complaint, the Defendants – and
7 each of them – converted all of said funds and have continued the hiding and secreting of these
8 funds from the period beginning on or about January 22, 2003 and continuing at all times
9 thereafter.

10 41. At all times, the Defendants – and each of them, as they entered the conspiracy
11 alleged herein – continued to hid and secrete the converted funds despite demands that they
12 cease and desist from doing so by the Plaintiffs.

13 42. Plaintiffs neither consented to nor ratified the Defendants’ conversion of their
14 money as set forth in this complaint.

15 43. Defendant **MORTGAGE ELECTRONIC SYSTEMS, INC. aka MERS,**
16 **INC.** is party to the creation of a negotiation trail of all Defendants’ negotiable instruments in a
17 way to create an appearance of propriety under the Uniform Commercial Code. (This
18 Defendant shall be designated as Defendant No. 1)

19 44. Defendant **ONE WEST BANK, FSB.** is party to the creation of a negotiation
20 trail of all Defendants’ negotiable instruments in a way to create an appearance of propriety
21 under the Uniform Commercial Code. (This Defendant shall be designated as Defendant No.
22 2).

23 45. Defendant **MORTGAGE ELECTRONIC SYSTEMS, INC. aka MERS,**
24 **INC.** is party to the creation of a negotiation trail of all Defendants’ negotiable instruments in a
25

1 way to create an appearance of propriety under the Uniform Commercial Code. (This
2 Defendant shall be designated as Defendant No. 1)

3 46. Defendants 151-1808 are all entities of unknown form. a.) located and doing
4 business in New York, New York, and b.) in the business of creating a negotiation trail of all
5 Defendants' negotiable instruments (including, but not limited to promissory notes) in a way to
6 create an appearance of propriety under the Uniform Commercial Code. These Defendants are
7 collectively referred to hereinafter as "New York Loan Pools".

8 47. At all times material hereto, the business of Defendants was operated through a
9 common plan and scheme designed to conceal from Plaintiffs the material facts set forth
10 below. Such facts were also concealed from the public and from regulators, either directly or
11 as successors-in-interest to the business acquired from others. The concealment was
12 completed, ratified and/or confirmed by each Defendant herein directly or as a successor-in-
13 interest as the acquirer of an entire business, and each Defendant performed or has sought to
14 benefit from the tortuous acts set forth herein for its own monetary gain and as a part of a
15 common plan developed and carried out with the other Defendants or as a successor-in-interest
16 to the business that did the foregoing.

17 48. Plaintiffs allege that each of the wrongful acts or omissions described below
18 was performed either by each Defendant herein, named or unnamed, or ratified and adopted by
19 each Defendant after its occurrence.

20 49. Further, those Defendants that did not actively perform the acts or omissions
21 described in this Complaint did affirmatively aid and abet the other Defendants in the
22 performance of such acts of omissions, before, during or after the fact.

23 50. Finally, each Defendant herein, named or unnamed, did knowingly derive some
24 form of profit or benefit from the acts and omissions described herein.
25

1 51. All Defendants agreed to work together in the conspiracy and/or joint enterprise
2 described in this Complaint based upon an express agreement among all Defendants to convert
3 plaintiffs' monies and personally in the manner described herein. Accordingly, each
4 Defendant, named or unnamed, should be held liable for the acts and omissions of all other
5 Defendants with respect to the causes of action set forth below.

6 52. The true names and capacities of the Defendants listed herein as DOES 2
7 through 1,000 are unknown to Plaintiffs who therefore sue these Defendants by such fictitious
8 names. Upon learning the true names and capacities of the DOE Defendants, Plaintiffs shall
9 amend this Complaint accordingly.

10 53. Each of the Defendants herein, named or unnamed, was the agent of each of the
11 other Defendant herein, named or unnamed, and thereby participated in all of the wrongdoing
12 set forth below. Thus, each such Defendant is responsible for the acts, events and concealment
13 of every other such Defendant as set forth below.

14 **FACTS COMMON TO ALL COUNTS**

15 54. Defendants' wrongful acts include (but are not limited to) the following (i)
16 claiming to be servicer of the subject notes at issue herein and demanding monthly loan
17 payments therefore, when in fact no Defendant had or has any legal claim to the monies paid to
18 it by Plaintiffs; (ii) taking loan payments every month from each Plaintiff without crediting any
19 portion of that money to the benefit of any Plaintiff; (iii) promising loan modifications to
20 Plaintiffs while never being an authorized legal representative of any person in a position to
21 actually modify Plaintiff's loans; (iv) inducing Plaintiffs to default on their loans so that
22 Defendant could not profit from the credit default swaps they had purchased, betting that such
23 loans would not be paid as agreed; (v) creating false reasons for charging fees to Plaintiffs
24 based upon nonexistent monies owed, then instituting foreclosure proceedings against
25 Plaintiffs based upon nonexistent monies owned, then instituting foreclosure proceedings

1 against Plaintiffs when such fees went unpaid; (vi) issuing wrongful Notices of Default, Notice
2 of Acceleration, or Notice of Foreclosure to Plaintiffs; (vii) by refusing to respond, in any way,
3 to Plaintiffs' communications or to communications made for Plaintiffs by their private and
4 public representatives; (viii) converting Plaintiffs' monies as alleged in great detail below, (ix)
5 secreting such acts of conversion through the massive international network used by
6 defendants to support their Ponzi scheme in violation of law.

7 **A. Ponzi Scheme and Conversion**

8 55. This is the largest scheme in United States history where domestic banking
9 institutions – on an international basis, involving all Defendants herein and their co-
10 conspirators operating together in a common enterprise as set forth below – engaged in an
11 institutional, worldwide scheme to steal, rob and convert the personal property, money and
12 proceeds of such assets of each Plaintiff herein on the dates, in the sums and with the *modus*
13 *operandi* set forth below.

14 56. This *modus operandi* of Defendants herein includes their decade-long and
15 systematic conversion and “Ponzi scheme” approach that damaged millions of borrowers
16 across the United States.

17 **B. Details of Defendants' Scheme**

18 57. Defendants' elaborate scheme consisted of – and continues to consist of –
19 numerous business designs, structures and arrangements operated by all Defendants herein.
20 These have included enterprises of each Defendant as set forth below, that dealt in the
21 converted assets of tens of thousands of American homeowners – including the Plaintiffs
22 herein-and secretly transferred them nationally and internationally into a gigantic ongoing
23 “Ponzi scheme”.

24 58. Because of the economic meltdown of 2007 and beyond, this Ponzi scheme has
25 required the creation of more and more shell entities, and other money-raising vehicles used by

1 Defendants herein in order to support the raising of additional money in order to continue to
2 hide the converted assets.

3 59. The entire purpose of Defendants' Ponzi scheme has been to hide the converted
4 assets of Plaintiffs (and other victims similarly situated) deeply and entirely so that Plaintiffs
5 and other victims become incapable of ever recovering the funds and personally converted
6 from them.

7 60. The assets unlawfully converted and stolen by all Defendants as a part of their
8 conspiracy, as well as instrumentalities used by all Defendants to continue the conversion and
9 secreting of Plaintiffs' assets that are known as of April 9, 2012, included and continue to
10 include the following:

- 11 a. Plaintiffs' money, as set forth below (conversion);
 - 12 b. Negotiable instruments improperly negotiated under state and federal law, as set
13 forth below (instrumentality);
 - 14 c. Private identity information of certain Plaintiffs, as set forth below (conversion);
 - 15 d. Other private information of certain Plaintiffs taken by Defendants in violation the
16 provisions of the United States Constitution, as alleged below (conversion);
 - 17 e. Mortgages or deeds of trust transferred secretly in violation of law, as set forth
18 below (instrumentality);
 - 19 f. Mortgaged-backed securities used merely to shield and hide the movement of assets
20 converted from Plaintiffs outside of the United States (instrumentality);
 - 21 g. Bond or debt securities – which Defendants began calling “hybrid” securities during
22 the pendency of this action – used merely to perpetuate the Ponzi scheme and thus
23 shield and hide the movement of assets converted from Plaintiffs outside of the
24 United States (instrumentality);
- 25

1 h. Money laundering of proceeds of the above-described activity, as set forth in detail
2 below (conversion and instrumentality);

3 i. Conversion and larceny where Defendants, and each of them, intended to and did
4 in fact use Plaintiffs' money and other converted property to perpetuate their Ponzi
5 schemes through the use of thousands of companies internationally – funded with
6 converted monies for the purpose of hiding the trail of conversion and secretion –
7 involving trillions of dollars.

8 61. Without Defendants' theft of Plaintiffs' money and other property – as alleged
9 herein – none of the mortgage, securities, money laundering and/or Ponzi schemes described
10 herein could have been initiated, perpetuated or maintained. The money converted from the
11 Plaintiffs and other consumers nationwide has always been the “fuel” for the schemes alleged
12 herein.

13 62. Included in the scheme as a key instrumentality – but not the fundamental
14 purpose of the scheme – was and is all Defendants' intention to foreclose on the homes of
15 homeowners, including Plaintiffs here, with respect to promissory notes that are each void *ab*
16 *initio* as a result of all Defendants' intentional violation of state and federal laws promulgated
17 to assure complete transparency and compliance with all applicable laws with respect to the
18 appropriate and lawful negotiation and transfer of such negotiable instruments.

19 63. Each Defendant herein is the agent, servant, and co-conspirator of each other
20 Defendant and all Defendants herein operated with their core *modus operandi* to steal and
21 convert the money and valuable personal property of each Plaintiff (and thousands of other
22 victims) and then to transfer that stolen money (and property) to (a) the other Defendants
23 herein, and to (b) other entities in at least 30 foreign countries according to proof.

24 64. In addition, Defendant BofA has admitted the involvement of co-conspirators
25 (a) located in countries without treaties with the United States of America and (b) pursuant to

1 instruments and prospectuses that purport to dissuade (but not expressly prohibit) the
2 involvement of such foreign countries.

3 65. Defendants, and each of them, have operated and continue to operate the largest
4 Ponzi scheme in world history with a plan that – at its inception – was intended to, did in fact
5 and continues to the present day to have as its object the theft and conversion of billions of
6 dollars from millions of homeowners, including Plaintiffs.

7 66. Plaintiffs became caught up in the tangled Ponzi-scheme-web of Defendants
8 innocently under the innocently under the guise of applying for a routine home loan or
9 refinancing of an existing home mortgage loan, and have been trying to recover back their
10 money in the sums alleged herein without success ever since. Because of Defendants'
11 intentional and longstanding secretion of their prior and current unlawful conduct, the trail is
12 growing cold and will ultimately be frozen absent the issuance of immediate injunctive relief
13 as prayed for herein.

14 67. Defendants have failed and refused to return Plaintiffs' money as alleged herein
15 despite (a) Plaintiff's repeated requests, (b) Defendants' promises to return the money and
16 property, on a consistent month-to-month basis, (c) Interventions by federal and state
17 government commanding Defendants to either return the money, or provide a transparent plan
18 identifying systems through which money and property could be identified, located and
19 legitimately returned otherwise accounted for.

20 **C. The historical background of the Ponzi scheme.**

21 68. The foregoing *modus operandi* of all Defendants herein – acting in concert with
22 each other and for the common goal of both stealing Plaintiff's money and then hiding any
23 documentary proof thereof – began in 2003.

24 69. At that time, each Defendant (or their predecessors) adopted a calculated
25 business strategy that transferred ownership of the promissory notes executed by home loan

1 borrowers to persons that were not entitled to receive negotiation thereof under applicable law,
2 and knew it but joined the conspiracy for purposes that amounted to greed. Such conspiracy
3 has continued to the date of filing hereof, but all Defendants with knowledge and malice
4 aforethought.

5 70. Defendant Countrywide and its various affiliates were among the leading
6 providers of mortgages in California during all times relevant to this Complaint. By 2005,
7 Countrywide was the largest U.S. mortgage lender in the United States, originating over \$490
8 billion in mortgage loans in 2005, over \$450 billion in 2006, and over \$408 billion in 2007.

9 71. The other Defendants (or their predecessors in interest, such as WAMU and
10 Wachovia) are the other largest home loan mortgage lenders in the United States, and were all
11 involved in the conspiracy described herein.

12 72. The *modus operandi* of the various Defendants was to use the numerous
13 methodologies set forth in this Complaint to convert money and property from consumers after
14 the origination of their loan. By 2007, this *modus operandi* had evolved into a massive
15 international Ponzi scheme relying upon foreign investor sources to secure and pay off money
16 injected into the systems of the Defendants by prior lending sources and by Defendants' prior
17 theft of borrower money (including Plaintiffs').

18 73. As of the end of 2007, Defendants had no definitive and reliable knowledge
19 regarding which foreign entity or entities in fact "owned" – as that term is defined under
20 Article 3 of the Uniform Commercial Code – any promissory note secured by any deeds of
21 trust or mortgages securing Plaintiff's real properties.

22 74. Consequently, some of the largest offenders – Countrywide, WAMU, and
23 Wachovia – became hopelessly insolvent and was literally forced by federal regulators to
24 commence negotiations with various large bank to effectuate mergers designed to "clean up"
25 these international Ponzi and conversion schemes.

1 75. In 2007, Defendant BofA commenced negotiations to acquire Countrywide. By
2 late 2007, BofA began merging its operations with Countrywide and adopting some of
3 Countrywide's practices.

4 76. WAMU was one of the largest residential mortgage lenders in the United States.
5 However, its predatory lending practices caused it to fail. In September 2008, Chase purchased
6 the assets and liabilities of WAMU for approximately \$1.9 billion and began merging it into its
7 operations into Chase by adopting some of its practices.

8 77. In 2008, Wachovia was the fourth-largest bank holding company in the United
9 States. However, Wachovia began to fail due to its lending practices, including those
10 described herein. In December 2008, Wells Fargo acquired the assets of Wachovia in order to
11 prevent it from failing, and spent nearly three years merging its operations into Wells Fargo,
12 including adopting some of its practices.

13 78. All of the Defendants have taken steps to continue the Ponzi scheme described
14 herein. Specifically, they have continued to pool mortgage notes into pools for purposes of
15 selling them as so-called mortgage-backed securities, thereby forever severing the promissory
16 notes from the mortgages that secure them.

17 79. The Defendants have also acted to foreclose upon homes owned by the
18 Plaintiffs and other individuals by collecting payment in full through a device called mortgage
19 default swap ("MDS"), whereby the defaulted mortgage would be replaced with a new one.
20 The original lender had already been paid when it transferred the promissory note, so there was
21 no loss to the lender. These lenders foreclose anyway, meaning that they are being paid more
22 than once for the same loan, leading to windfall profits when they sell the properties that they
23 seize through foreclosure.

24 80. The fraud perpetrated by the Defendants was willful and pervasive. It began
25 with simple greed and then accelerated when the lenders discovered that they could not sustain

1 their business, unless they (a) used their size and large market share to systematically create
2 false and inflated property appraisals throughout the United States and with respect to each
3 Plaintiff herein and (b) used their network of companies to convert money from unsuspecting
4 borrowers in the United States, including Plaintiffs, who had good reason at the time to rely
5 upon these fraudulent appraisals and concealment of their intentional, illegal activities.

6 81. The Defendants then used these false property valuations, their resulting
7 conversion of monies, and their ongoing Ponzi scheme to finance an operation of agents,
8 including all Defendants and other parties, in order to induce the Plaintiffs and other borrowers
9 into signing documents purportedly confirming ever-larger "refinancing" of their existing
10 mortgages, or to execute promissory notes so that the Defendants could later convert more
11 money and property from them.

12 82. The Defendants either knew, or should have known, no later than 2004, that
13 these loans were sustainable for the lenders and the borrowers and to a certainly either knew or
14 should have known that their fraudulent activity would result in a crash that would consume
15 the equity invested by the Plaintiffs and all other borrowers.

16 83. The Defendants either knew, or should have known, no later than 2004, that the
17 foregoing misconduct would result in their ability to convert monies from Plaintiffs (and
18 thousands of other homeowners) subsequent to their pooling of these promissory notes as
19 mortgage-backed securities ("MBS") that would be sold on the open market to various
20 institutional investors for inflated values.

21 84. This system led to the Defendants making multiple sales of the same promissory
22 notes to multiple MBS pools. These multiple sales of the same promissory notes to multiple
23 buyers do not create ownership of such negotiable instrument under Article 3 of the Uniform
24 Commercial Code.

1 85. The plan to pool these loans into MBS offerings grew into a brazen plan to
2 disregard underwriting standards and fraudulently inflate property values – county-by-county,
3 city-by-city, person-by-person – in order to take business from legitimate mortgage-providers,
4 and developed into a massive securities fraud that depended on the concealment from the
5 deception of the Plaintiffs as to the true nature of these transactions on an unprecedented scale.
6 In this way, the Defendants would be able to convert money from the Plaintiffs without such
7 Plaintiffs having any idea or knowledge of the dirty and unlawful plot at the time it was being
8 implemented.

9 86. As early as 2004, the Defendants either knew or should have known that this
10 scheme would cause a liquidity crisis that would devastate the Plaintiffs’ home values and net
11 worth.

12 87. The Defendants did not care, because their plan was based on insider trading –
13 pumping for as long as they could and then dumping before the truth came out and the theft
14 and conversion of money and assets from Plaintiffs as well as the general public were locked
15 in.

16 88. Couched in banking and securities jargon, the deceptive gamble with
17 consumers’ primary assets – their homes – was nothing more than a financial theft and
18 concurrent Ponzi scheme perpetrated by Defendants and their co-conspirators on a scale never
19 before seen.

20 89. This scheme led directly to a nationwide mortgage meltdown that was
21 substantially worse than any economic problems facing the rest of the United States, thereby
22 causing the failure of numerous lenders.

23 90. From 2008 to the present, Americans’ home values decreased substantially as a
24 direct and proximate result of the Defendants’ scheme set forth herein, leaving a large
25 percentage of homeowners “upside down”, meaning that they owe more on their home

1 mortgage loans than their homes are worth. In some instances, those homes are so far upside
2 down that it could take a decade or more for the homeowners to regain a positive position with
3 respect to the value of their homes.

4 91. This massive fraudulent scheme was a disaster both foreseen by the Defendants
5 as well as waiting to happen. Defendants knew it, and further knew that the taxpayer money
6 would bail out those lenders deemed too big to fail.

7 92. The lenders involved – Defendants herein – embarked on a plan and scheme to
8 use the good faith of taxpayer money and the country's trust and confidence in the big banks
9 that acquired Countrywide, WAMU, and Wachovia to (a) further hide their nefarious
10 conversion scheme, (b) engage in additional acts of conversion and secreting of the knowledge
11 thereof and (c) use new laws and initiatives as a basis to induce unsuspecting homeowners to
12 fall further victim to their ongoing expansion of the foregoing scheme throughout the world.

13 93. As a result, the Plaintiffs lost money and any ability to actually pay off their
14 promissory notes, their credit ratings and histories were damaged or destroyed, and they also
15 incurred material other costs and expenses, all as described herein.

16 94. At the same time, Defendants converted from Plaintiffs and other borrowers
17 across the country billions of dollars in interest payments and fees and generated billions of
18 dollars in profits by vastly expanding the scheme previously unique to just a few predatory
19 lenders such as Countrywide and now subject to the power of (a) a new, larger and more
20 credible parents, such as BofA, Chase, and Wells Fargo and (b) the influx of new dollars in the
21 form of taxpayer money and increased investment by investors knowledgeable of the Ponzi
22 scheme to such an extent that they were co-conspirators in it.

23 95. The Defendants then began to use their customers' most private information to
24 maximize their illegal gains, ranging from the disclosure of the most private and confidential
25 information of more than 2.4 million customers, to the outsourcing and sale of hundreds of

1 thousands of records to bolster their fraudulent scheme, disenfranchising citizens of their
2 constitutional inalienable right of privacy.

3 96. When the Defendants pooled the loans they originated and sold in MBS
4 secondary mortgage market transactions, those lenders recorded gains on the sales. In 2005,
5 Countrywide reported \$541.6 million in pre-tax earnings from capital market sales; in 2006, it
6 recognized \$553.5 million in pre-tax earnings from that activity.

7 97. However, after the liquidity crisis hit, in 2007 it recognized a mere \$14.9
8 million in pre-tax earnings from that activity and reported an overall pre-tax loss.

9 98. In addition, there is a lot of confusion, even among the mortgage companies, as
10 to the ownership history of many mortgage loans. In the mad rush to convert home mortgages
11 into securities to be bought and sold on Wall Street, investors did not want to spend the time or
12 money necessary to keep track of ownership by filing papers in local recording offices.

13 99. Investors by-passed the traditional systems and replaced them with the MERS
14 system, which is not only inherently unreliable and unverifiable, it also remains outside the
15 public eye.

16 100. As a result, it is no longer possible for most Americans to go to their local
17 courthouse and look at property records to find out who the owner of their mortgage currently
18 is.

19 101. To make matters worse, the Defendants established their concealment network
20 now alleged entity-by-entity in this complaint, and this network has made it impossible to track
21 the negotiation techniques and rights to possession of promissory notes, which are not publicly
22 recordable.

23 102. The illegal and improper acts of the Defendants have continued, including, *inter*
24 *alia*: (i) engaging in the practice of “robo-signing,” whereby the lenders used people who had
25 no personal knowledge to sign fraudulent and perjured affidavits that indicated that they had

1 personal knowledge of those matters in an effort to deprive homeowners of their property
2 without due process of law; (ii) refusing to modify loans; and (iii) refusing to entertain short
3 sale opportunities, all with the intention to (a) buy time to further conceal previous conversions
4 and/or (b) convert additional monies from the Plaintiffs in sum according to proof.

5 103. Many of the Plaintiffs were told not to make mortgage payments and/or to sign
6 letters authored by agents of Defendants, exacerbating a desperate financial situation that was
7 either untrue or inflated at Defendants' insistence. This was all done in order to buy time for
8 Defendants to further secret the conversion of funds practiced against the Plaintiffs and to
9 support other conversions of monies that Defendants were bent on practicing.

10 104. Defendants have gone to great lengths to avoid identifying the location of
11 monies and property converted by them from Plaintiffs. The gigantic network of Defendants
12 and their co-conspirators-companies formed in countries such as the Cayman Islands,
13 Luxembourg, Gibraltar and Chile for the purpose of hiding assets and laundering money-has
14 been, and continues to be, used to systematically hide and ultimately destroy the evidence
15 revealing the method of conversion used and the location of the money and personally
16 converted by Defendants.

17 105. By these tactics, systems, and delays, Defendants intent to and are in fact
18 buying time as they (a) accept the benefits of the Ponzi scheme and conversion activities
19 described herein, (b) cover up their historical conversion and Ponzi scheme, and (c) make it
20 materially more expensive and difficult for the Plaintiffs to locate their stolen assets and gain
21 recompense.

22 106. Defendants herein include some of our leading financial institutions –
23 institutions upon which the Plaintiffs thought they could rely, and did in fact rely upon.
24 However, their reliance was misplaced. As is clear from the mounting number of federal and
25 state enforcement actions against Defendants, it is now widely recognized that they have

1 committed numerous illegal acts in the process of operating their mortgage businesses. BofA
2 alone has been sued for trillions of dollars as a result of its involvement in these activities.

3 107. These acts remain ongoing, and continue to threaten the Plaintiffs'
4 constitutional rights and financial security, as well as the economic future of the United State
5 of America.

6 **D. The scheme to convert the funds of the Plaintiffs**

7 108. The Defendants either knew or should have known that the scale of the lending
8 – based on inflated property values, without income verification and in violation of numerous
9 other underwriting guidelines – would lead to widespread declines in property values, thereby
10 placing Plaintiff's and others into *extremis* through which they would lose the equity invested
11 in their homes and have no means of refinancing or selling, other than at a complete loss.

12 109. That is precisely what happened to the Plaintiff's herein after Defendants
13 converted their money and the equity in their homes, but before Plaintiffs could have possibly
14 realized the ultimate purpose of the Defendants' scam.

15 110. While the following quotation, taken from a regulatory report, refers
16 specifically to Countrywide, which was portrayed as a prudent, quality lender, it also applies to
17 the business practices of all Defendants. "But the real Countrywide was very different. We
18 allege it was a company that underwrote loans in a manner that layered risk factor upon risk
19 factor, such as reduced documentation . . . [a]lso concealed from investors were concerns
20 voiced by Countrywide's own Chief Credit Risk Officer, who warned that this 'supermarket'
21 strategy reduced Countrywide's underwriting guidelines to a 'composite of the riskiest
22 products being offered by all of their competitors combined.'"

23 111. The Defendants held themselves out as makers of prime quality mortgage loans,
24 but instead hid the fact that they, in an effort to increase their respective market shares,
25 engaged in an "unprecedented expansion of its underwriting guidelines from 2005 and into

1 2007.” Specifically, the Defendants developed what was referred to as a “supermarket”
2 strategy, where they attempted to offer any product that was or might be offered by any
3 competitor.

4 112. By the end of 2006, Defendants’ underwriting guidelines were as wide as they
5 had ever been, and they were writing riskier and riskier loans. Even these expansive
6 underwriting guidelines were not sufficient to support their desired growth, so the lenders
7 wrote an increasing number of loans as “exceptions” that failed to meet their already wide
8 underwriting guidelines even though exception loans had a higher rate of default.

9 113. The covert scheme of the Defendants was, like all such schemes based on
10 deception, ultimately unsustainable. The Defendants relied upon their sales of mortgages into
11 the secondary market through MBS instruments as an important source of revenue and
12 liquidity.

13 114. The Defendants not only covered up the poor quality of their loans and the
14 liquidity crisis they created, they intentionally misrepresented to the public, in statements and
15 in public filings, the nature of those loans in an effort to further defraud the public into
16 continuing to borrow money and put their assets at risk.

17 115. The Defendants’ scheme eventually collapsed under its own weight,
18 precipitating an economic crisis of unprecedented proportions.

19 116. As defaults on these poorly underwritten loans increased, Defendants used the
20 opportunity presented by the rising number of defaults to increase their fees and further convert
21 other funds from Plaintiffs and other borrowers.

22 117. To add insult to injury, as the number of defaults rapidly rose, the Defendants
23 added unreasonable additional fees to the mortgages of homeowners who were desperately
24 trying to save their homes, thereby boosting their profits at the expense of those who could
25 least afford to bear that burden.

118. Defendants did the foregoing with the intent to convert funds from the Plaintiffs and other members of the public. The Plaintiffs did not know the massive scheme that the Defendants had devised and never knew until it was far too late to prevent the massive network being used across the globe to hide the transfer of converted money and property.

119. As a proximate and foreseeable result of the Defendants' sale of the promissory notes pertaining to the properties of the Plaintiffs and others similarly situated for more than the actual value of such instruments, the MBS securitization pools lacked the cash flow necessary to maintain them in accordance with the terms of their indentures. The unraveling of Defendants' scheme has materially depressed the price of real estate throughout the country, including the real estate owned by the Plaintiffs, resulting in the losses to the Plaintiffs described herein.

120. The Defendants have made use of wholly or partially owned foreign companies in an effort to continue to hide and to misrepresent the ownership of the promissory notes executed by the borrowers, including the Plaintiffs, who borrowed funds from them.

121. BofA, Chase, and Wells Fargo have ratified the bad acts of WAMU, Countrywide, and Wachovia, by intentionally making use of foreign companies to frustrate the Plaintiffs and other borrowers seeking information about their lost money, mortgages and loan modifications.

FIRST CAUSE OF ACTION

Conversion

122. All of the above Paragraphs of this Complaint are hereby incorporated by reference as though fully set forth herein.

1 123. All Defendants have demanded and received payments from the Plaintiffs based
2 upon the claim of these Defendants that such monies are owned on the loans and promissory
3 notes at issue herein.

4 124. These Defendants have further demanded and received from Plaintiffs
5 payments, imbursements for late charges, penalty fees, and trial loan modification payments.

6 125. In truth, on information and belief, these Defendants had and have no legal right
7 to be demanding such payments from the Plaintiffs for any loans or promissory notes or loan
8 modification at issue herein because these Defendants are not holders or owners of the
9 promissory notes in question and they no longer know who is.

10 126. Further, Defendants are not the authorized representative or agent for the
11 holders or owners of the promissory notes in question.

12 127. In truth, the monies collected from the Plaintiffs by these Defendants was not
13 credited for the benefit of the individual Plaintiffs involved, in that it was not used to pay down
14 that Plaintiff's (or any Plaintiff's) principal and/or interest purportedly due on his or her
15 promissory note.

16 128. Thus, in taking monies from Plaintiffs as describe above, these Defendants are
17 liable to Plaintiffs herein for conversion, i.e., the act of dominion wrongfully exerted over
18 another person's personal property.

19 129. These claims of conversion are based upon the facts that a) each Plaintiff had
20 ownership and the right to possession of the monies taken from him by these Defendants as
21 described above; b) these Defendants acted wrongfully by receiving such money under the
22 guise that the Defendants were entitled to the money, when in fact they were and are not entitle
23 to any such payment; c) no money collected by these Defendants from these Plaintiffs was
24 credited to the benefit of the individual Plaintiff involved for the pay down of any principal or
25 interest purportedly due on that Plaintiff's note; and d) each Plaintiff suffered general and

1 special damages, including loss of the money that was taken from them by these Defendants
2 through this subterfuge, according to proof.

3 130. These Defendants also committed conversion as against each Plaintiff by
4 converting equity that previously existed in each Plaintiff's home – in sums according to proof
5 – by surcharging against that equity various false “reserves” in the form of “insurance” or “tax”
6 or “general” reserve imbursements, which were then recorded as debts against the property of
7 the individual Plaintiff involved.

8 131. Just as banks are liable to a customer and must credit his account for conversion
9 when banks pay on a forged endorsement of a commercial instrument, so too are these
10 Defendants liable for these false surcharges improperly charged against a Plaintiff's account.

11 132. As a direct and proximate result of the conversion committed by the
12 Defendants, each Plaintiff suffered general and special damages according to proof.

13 133. Each Plaintiff is further entitled to restitution of those amounts wrongfully
14 converted from him or her.

15 134. These Defendants willfully committed the wrongdoing against each Plaintiff as
16 described herein and knowingly chose to deceive him or her in the above described manner.
17 Thus, the acts of these Defendants were malicious and performed with a callous disregard for
18 Plaintiff's legal rights. Plaintiffs are therefore entitled to punitive damages. Plaintiffs are
19 further entitled to attorney fees under whatever contract or statute applies.

20 135. All Defendants have converted and stolen – in the manner, using the means of
21 interstate commerce as set forth herein – the sum of at least between \$40,000.00 and
22 \$60,000.00, from each Plaintiff herein.

23 136. In no event has any Plaintiff herein suffered damages greater than \$75,000.00
24

25 **SECOND CAUSE OF ACTION**

Conspiracy to Commit Conversion

137. All of the above Paragraphs of this Complaint are hereby incorporated by reference as though fully set forth herein.

138. Plaintiffs allege that each of the wrongful acts or omissions described in the First Cause of Action for Conversion above was either performed by each Defendant herein, named or unnamed, or ratified and adopted by each Defendant after its occurrence.

139. Further, those Defendants that did not actively perform the acts or omissions described here did affirmatively aid and abet the other Defendants in the performance of such acts or omissions, either before, during, or after the fact in the form of concealment and secretion activities worldwide. Such activities represent additional acts of conversion under law.

140. Finally, each Defendant herein named, or unnamed, did knowingly derive some form of profit or benefit from the acts and omissions described herein. All Defendants agreed to work together in the conspiracy and/or joint enterprise described in this Cause of Action as set forth herein. Accordingly, each Defendant, named or unnamed, should be held liable for conspiracy to commit the conversion as alleged in the First Cause of Action.

141. The Plaintiffs are entitled to the damages as alleged and described in the First Cause of Action – and as alleged above – as a direct and proximate result of this conspiracy of all Defendants to commit repeated and serial acts of conversion against these Plaintiffs as described herein.

142. Those Defendants willfully committed the wrongdoing against each Plaintiff as described herein and knowingly chose to deceive him in the above-described manner. Thus, the acts of these Defendants were malicious and performed with a callous disregard for Plaintiffs' legal rights. Plaintiffs are therefore entitled to punitive damages.

1 143. In no events has any Plaintiff herein suffered damages greater than \$75,000.00.

2
3 **THIRD CAUSE OF ACTION**

4 **Intentional Misrepresentation**

5 144. All of the above Paragraphs of this Complaint are hereby incorporated by
6 reference as though fully set forth herein.

7 145. The Defendants intentionally misrepresented to the Plaintiffs and to the
8 consuming public in general their intentions regarding the reasonableness and appropriateness
9 of their underwriting procedures in making mortgage loans to the Plaintiffs, and also materially
10 misrepresented to the consuming public that they were not making quality loans when they told
11 the consuming public that they were only making quality, prime home loans.

12 146. The Defendants intentionally misrepresented to the public at large the status of
13 their liquidity and the quality of the loans that they were making.

14 147. Those Defendants further intentionally misrepresented to the Plaintiffs that they
15 would not use or otherwise impose unreasonable or unfair charges against the Plaintiffs and the
16 rest of the consuming public, but they failed to do so.

17 148. The campaign, misinformation and partial information described in this Cause
18 of Action as well as in the rest of this Complaint were intended to be repeated and also to be
19 broadly disseminated through the media, analyst reports and individual communications, and it
20 was.

21 149. It was intended to become part of the well-understood “givens” among
22 homeowners and prospective homeowners seeking mortgages, and it did so become part of the
23 lexicon of homeownership and mortgage choices.

1 150. These Plaintiffs relied upon the misrepresentations and entered into mortgages
2 with the Defendants.

3 151. All of said intentional misrepresentations and omissions were made by the
4 Defendants with the intent to induce the consuming public, including the Plaintiffs, to enter
5 into mortgage loan transactions that would deprive them of the equity in their homes.

6 152. By reason of the prominence of the Defendants and their campaign of deception
7 as to their business plans and the relationship of trust developed between each of the
8 Defendants and the Plaintiffs, Plaintiffs were justified in relying upon Defendants'
9 representations.

10 153. At all times pertinent, the Plaintiffs in fact reasonably relied upon the
11 representations made by the Defendants that they would use reasonable and rational
12 underwriting guidelines in making mortgage loans to the consuming public and entered into
13 mortgage loan contracts with the Defendants, all to their injury and detriment.

14 154. In fact, the appraisals were inflated. The Defendants did not utilize appropriate
15 underwriting processes. The financial condition of the various Defendants was not sound, but
16 rather was a house of cards ready to collapse. Further, Plaintiffs' mortgages were not
17 refinanced with fixed rate mortgages as they were told they would be, and the Defendants
18 never intended that they would be.

19 155. As a result of Defendants' scheme described herein, these Plaintiffs could not
20 afford their adjustable rate mortgages when their variable rate features and/or balloon
21 payments kicked in.

22 156. Further, and as a result of the nefarious scheme of the Defendants, the Plaintiffs
23 could not refinance or sell their residences without suffering a loss of their equity investments.
24
25

1 162. In addition to the numerous acts of fraud described above, the Defendants
2 represented to multiple Plaintiffs and to the consuming public in general that the Defendants
3 would assist them in accomplishing a loan modification. As described herein, those
4 representations were false.

5 163. Defendants knew that their representations regarding their willingness to enter
6 into loan modification agreements were false when they made them.

7 164. Because of new laws pertaining to loan modifications combined with the
8 insistence of the Defendants that they had a genuine interest in complying therewith and in
9 keeping borrowers in their homes, the Plaintiffs reasonably relied on these materially false
10 misrepresentations made by the Defendants.

11 165. By delaying the Plaintiffs from pursuing their rights and by increasing the costs
12 of the Plaintiffs combined with the continuing erosion of each Plaintiff's credit rating, each
13 Plaintiff's reliance harmed that particular Plaintiff.

14 166. The Plaintiff's reliance on the representations made by the Defendants was a
15 substantial factor in causing harm to them.

16 167. Without limiting the damages as described elsewhere in this Complaint, the
17 damages of the Plaintiffs arising from the matters complained of in this Cause of Action also
18 include the loss of equity in their houses, costs, and expenses related to protecting themselves,
19 reduced credit scores, unavailability of credit, increased costs of credit, reduced availability of
20 goods and services tied to credit ratings, increased costs of those services, as well as fees and
21 costs, including, without limitation, attorney fees and costs.

22 168. The Plaintiffs are entitled to recover general and special damages directly and
23 proximately resulting from the Defendants' intentional deceit and misrepresentations.

24 169. These Plaintiffs are further entitled to punitive damages in order to punish these
25 Defendants for their malicious, oppressive and willful conduct as herein described.

170. Inclusive of all compensatory damages, special damages, attorney fees and punitive damages alleged herein, each Plaintiff has sustained damage in sum of greater than \$75,000.00.

FIFTH CAUSE OF ACTION

Fraudulent Concealment

171. All of the above Paragraphs of this Complaint are hereby incorporated by reference as though fully set forth herein.

172. Defendants have offered to help the Plaintiffs with obtaining “loan modifications” while concealing from these Plaintiffs the fact that, upon information and belief, these Defendants are not the rightful owners and/or holders of the subject promissory note associated with their mortgages.

173. The Defendants have also failed to disclose that they are not the legal representatives or agents of such persons, and they have further failed to disclose that the Defendants' entire motivation and purpose in doing so has been, and continues to be, the conversion of Plaintiffs' monies and the taking of their homes in violation of law.

174. Thus, these Defendants are legally incapable to be able to enter into loan modifications with any Plaintiff.

175. Despite the fact, the Defendants have had and continue to have a vested interest in “offering loan modifications” to borrowers, including the Plaintiffs, because they can make a profit from continuing to cover up the industry-wide scheme alleged above and to create an environment where they can commit additional acts of fraud and conversion.

176. In fraudulently offering loan modifications to Plaintiffs, the Defendants have convinced Plaintiffs that loan modifications will only be given to those borrowers that are delinquent on their loans and/or in default.

1 177. The Defendants have made these statements on an industry-wide basis in order
2 to permit them to continue their scheme of obtaining monies and properties from Plaintiffs
3 wrongfully and in violation of law.

4 178. In reliance upon these materially false representations, and in the belief that they
5 would be able to obtain loan modifications if they followed these false and misleading
6 instructions, Plaintiffs have permitted their loans to go delinquent and/or into default, believing
7 this step to be a requisite of the loan modification process.

8 179. At all times relevant, the Defendants possessed superior knowledge to that of
9 the Plaintiffs, and further had access to material facts that were not accessible to the Plaintiffs
10 regarding their nefarious scheme to induce the Plaintiffs to permit their mortgages to go into
11 default in the hope of obtaining loan modification.

12 180. At all times relevant, Defendants had an affirmative duty to disclose to the
13 Plaintiffs that Defendants had no legal authority to offer loan modifications.

14 181. However, the Defendants have hidden and suppressed the fact that they do not
15 own the subject promissory notes and hence have no legal or contractual authority to offer such
16 loan modifications.

17 182. The Defendants also had an affirmative duty to disclose to the Plaintiffs that
18 Plaintiffs did not have to be in default on their loans in order to qualify for loan modifications.

19 183. Defendants have induced the Plaintiffs into allowing their loans to go into
20 default by telling Plaintiffs it was a requirement for becoming eligible for a loan modification.

21 184. In truth, under applicable law in effect since 2009, a borrower is *not* required to
22 be delinquent and/or in default with his loan in order to be eligible for a loan modification.

23 185. Defendants have only claimed that borrowers must be in default, in violation of
24 law, because Defendants can realize more profit and commit more acts of conversion when a
25 borrower is actually in default, i.e., at least 90 days behind in his loan payment.

1 186. After Defendants profited by their deceit and concealment, they then continued
2 demanding and collecting monies from Plaintiffs, constituting outright conversion.

3 187. The fact that these Plaintiffs did *not* need to be delinquent on their loans and/or
4 in default in order to qualify for loan modifications has been hidden and suppressed from these
5 Plaintiffs by Defendants and continues to be hidden.

6 188. The Defendants should have disclosed these suppressed facts to the Plaintiffs
7 because they were material to the cost-benefit analysis that should have and could have been
8 undertaken by each Plaintiff.

9 189. Had the true facts been disclosed to the Plaintiffs, knowledge of those material
10 facts likely have caused each Plaintiff (a) to act differentially than he or she did while not
11 knowing the facts hidden from him by Defendants, and (b) to protect himself or herself by not
12 preventing his or her funds from being converted by Defendants.

13 190. The Defendants knew these suppressed facts and further knew at the of their
14 suppression, that such suppression and concealment would cause each Plaintiff to act in a way
15 that was injurious to him or hear while at the same time being profitable to Defendants.

16 191. When suppressing and concealing form the Plaintiffs these material facts as
17 herein alleged, Defendants intended to induced each such Plaintiff to alter his or her position to
18 his or her harm.

19 192. Each Plaintiff justifiably and reasonably relied on the fraudulent concealment
20 created by these Defendants in their suppression and concealment of the material facts
21 described above.

22 193. Once a Plaintiff became delinquent in his or her loan Payments, Defendants
23 then acted to ensure that the delinquency became a default under the terms of the loan
24 documents.

1 194. Defendants achieved this by asking each Plaintiff applying for a loan
2 modification to submit the Proper application and paperwork. Once a Plaintiff submitted all
3 documents as requested, the Defendants then claimed to have “lost” the Plaintiff’s application
4 package, necessitating the re-submission of such documents by each Plaintiff hoping to qualify
5 for a loan modification.

6 195. During this process, Defendants would collect and convert the maximum
7 amount of money from Plaintiffs in sums according to proof.

8 196. This Process of “losing the paperwork” and requiring re submission thereof
9 necessarily ensured that a Plaintiff’s one or two-month “delinquency” automatically became a
10 “default” and an event requiring significant payments to Defendants to cure said “default,” all
11 of which constituted misappropriation and conversion of funds under law.

12 197. These Defendants regularly dragged out this process for months and months
13 when dealing with Plaintiffs in need of loan modifications. They did so by claiming over and
14 over again to have “lost” the paperwork of the borrower involved.

15 198. Each Plaintiff was directly and proximately harmed by Defendants’ Fraudulent
16 concealment of facts described herein.

17 199. Plaintiffs have incurred additional costs and charges and late fees as a result of
18 being told that they needed to be delinquent in their loans in order to obtain a loan
19 modification.

20 200. Plaintiffs have gone into default and even lost their homes through foreclosure
21 as the result of the same fraudulent concealment by Defendants.

22 201. Further, Plaintiffs have had their credit profiles destroyed by allowing their
23 loans to go into default as instructed by Defendants.

24 202. Accordingly, each Plaintiff is entitled to general and special damages according
25 to proof at trial.

203. Further, the Defendants acted outrageously and persistently with actual malice in suppressing the facts and circumstances set forth, and they continue to do so. Accordingly, the Plaintiffs are entitled to exemplary and punitive damages in a sum according to proof.

204. The Defendants willfully committed the wrongdoing against each Plaintiff as described herein and knowingly chose to deceive him in the above-described manner. Thus, the acts of the Defendants were malicious and performed with a callous disregard for Plaintiffs' legal rights. Plaintiffs are therefore entitled to punitive damages. Plaintiffs are further entitled to attorney fees under whatever contractor or statute applies.

205. Inclusive of all compensatory damages, special damages, attorney fees and punitive damages alleged herein, no Plaintiff has sustained damage in a sum greater than \$75,000.00.

SIXTH CAUSE OF ACTION

Fraudulent Concealment

206. All of the above Paragraphs of this Complaint are hereby incorporated by reference as through fully set forth herein.

207. As set forth in the Fifth Cause of Action, the Defendants used fraud and artifice to lure borrowers into defaulting upon their mortgages by promising them loan modifications when they had no intention of providing such loan modifications.

208. Once the Defendants lured a borrower into default, then the Defendants collected upon “credit default swaps” (“CDS’S”).

209. CDS's been and are used to insure mortgage-backed securities, and investor trading in these two instruments was the cause of the mortgage that occurred in this country.

1 210. A CDS is a form of insurance that is actually a bet *against* the subject loan
2 being paid on time as agreed. CDS's ensure that Defendants can collect on every loan that goes
3 bad by going into default.

4 211. If a borrower default upon a mortgage that was pooled into an MBS, the buyer
5 of the CDS makes a series of payments (the CDS "fee" or "spread") to the seller and, in
6 exchange, receives a payoff if the loan defaults. Thus, the original lender was paid when it sold
7 the promissory note executed by the borrower, and the MBS pool was also paid in full by
8 virtue of the CDS payments received.#

9 212. This, then, constitutes the number one reason that the Defendants wanted each
10 Plaintiff to actually default on his or her loan: The Defendants bet against each Plaintiff by
11 buying CDS's on every loan they allegedly service, and then trying to get that loan into default
12 so that the Defendants can collect on this "side bet."

13 213. The fact that the Defendants were motivated to see that each Plaintiff failed to
14 pay their mortgages on time and thus ended up in default so that the Defendants could collect
15 on their CDS side bet has been hidden and suppressed from Plaintiffs by the Defendants.

16 214. The suppressed facts and circumstances described herein should have been
17 disclosed to the Plaintiffs by the Defendants because such facts and circumstances were
18 material in that they were essential to the analysis that should and could have been undertaken
19 by each Plaintiff in determining whether to enter into a loan transaction with the Defendants,
20 and would likely have caused each Plaintiff to act differently than he did while not knowing
21 the facts hidden from him by Defendants.

22 215. These suppressed facts and circumstances were known to the Defendants at the
23 time they were hidden from Plaintiffs.
24
25

1 216. Further, the Defendants knew at the time of suppression and concealment that
2 such suppression and concealment would cause each Plaintiff to act in a way that was injurious
3 to him while at the same time being profitable to the Defendants.

4 217. When suppressing and concealing from these Plaintiffs the facts and
5 circumstances herein described, the Defendants intended to induce each Plaintiff to alter his
6 position to his harm.

7 218. Each Plaintiff justifiably and reasonably relied on the fraudulent concealment
8 created by Defendants in their suppression of the facts and circumstances described in this
9 Cause of Action.

10 219. Defendants' receipt of money from CDS's coupled with their later receipt of
11 money from Plaintiffs means that the Defendants have received a windfall in the form of
12 gaining either ownership of the real property of borrowers, or the value of that real property,
13 and is malicious, outrageous, and entitles Plaintiffs to recover exemplary and punitive damages
14 in a sum according to proof.

15 220. The Defendants knowingly and willfully committed the wrongdoing against
16 each Plaintiff as described herein and knowingly chose to deceive him in the above-described
17 manner. Thus, the acts of Defendants were malicious and performed with a callous disregard
18 for Plaintiffs' legal rights. Plaintiffs are therefore entitled to punitive damages. Plaintiffs are
19 further entitled to attorney fees.

20 221. Inclusive of all compensatory damages, special damages, attorney fees and
21 punitive damages alleged herein, no Plaintiff has sustained damage in a sum greater than
22 \$75,000.00.

23 SEVENTH CAUSE OF ACTION

24 Promissory Estoppel

1 222. All of the above Paragraphs of this Complaint are hereby incorporated by
2 reference as though fully set forth herein.

3 223. Each Plaintiff herein attempted to take steps to save his or her house once it
4 became apparent that Defendants intended to foreclose against them. Some Plaintiffs
5 considered failing bankruptcy as a valid and viable means to save their homes. Other Plaintiffs
6 investigated other possible ways to avoid losing possession of their homes due to Defendants'
7 wrongful tactics as set forth above.

8 224. In each instance, Defendants promised to Plaintiffs that there was no need to file
9 bankruptcy or pursue other ways to avoid foreclosure because Defendants would forego the
10 foreclosure process and would instead "work with" each Plaintiff to modify the terms of the
11 home loan in question, thereby making it possible for each Plaintiff to make the necessary
12 monthly payments.

13 225. In reliance on the promises made by Defendants not to foreclose and to instead
14 "work with" each Plaintiff, each Plaintiff reasonably decided not to file for bankruptcy or to
15 investigate other possible scenarios to stave off impending foreclosure.

16 226. Instead of cooperating with each Plaintiff and working with them to modify
17 each loan at issue, Defendants instead have proceeded with various levels of conversion and/ or
18 foreclosure proceedings against each Plaintiff herein.

19 227. In reasonable reliance on Defendants' promises not to foreclose, each Plaintiff
20 has suffered direct and proximate damages as a result of Defendants' bad-faith of promises to
21 exceed \$75,000.00. Each Plaintiff is therefore entitled to compensatory damages according to
22 proof within these limitations, in order to make him or her whole.

23 **EIGHTH CAUSE OF ACTION**

24 **Negligent Misrepresentation**

1 228. All of the above Paragraphs of this Complaint are hereby incorporated by
2 reference as though fully set forth herein.

3 229. Because the Plaintiffs relied upon the Defendants to guide them through the
4 process of making and later servicing their home mortgage loans, a special relationship exists
5 between the Plaintiff and the Defendants.

6 230. The existence of that special relation imposed upon the Defendants a duty to
7 fully and accurately disclose all pertinent information pertaining to those home loans to the
8 Plaintiffs, including, but not limited to, true and correct information pertaining to the
9 securitization of their notes, the existence of CDS, and the fact that the Defendant lenders had
10 no legal right to foreclose upon their mortgages once the promissory notes became the basis for
11 MBS pools.

12 231. Defendants failed to disclose this material information to the Defendants, or
13 omitted critical elements from the disclosures that were made.

14 232. The Plaintiffs reasonably relied upon the material misrepresentations of the
15 Defendants to their detriment in choosing to proceed with their mortgage loan transactions.

16 233. As a consequence of the negligent misrepresentations made by the Defendant to
17 the Plaintiffs, no Plaintiff herein has suffered damages greater than \$75,000.00.

18 234. Plaintiffs allege that each of the wrongful acts or omissions described in this
19 Cause of Action was performed by each Defendant herein, named or unnamed, or ratified and
20 adopted by each Defendant after its occurrence. Further, those Defendants that did not actively
21 perform the acts or omissions described here did affirmatively aid and abet the other
22 Defendants in the performance of such acts or omissions, before, during or after the fact.

23 235. Finally, each Defendant herein, named or unnamed, did knowingly derived
24 some form of profit or benefit from the acts and omissions described herein. All Defendants
25 agreed to work together in the conspiracy and/or joint enterprise described in this paragraph as

1 that conspiracy is alleged above. Accordingly, each Defendant, named or unnamed, should be
2 held liable for the acts and omissions complained of.

3 **NINTH CAUSE OF ACTION**

4 **Breach of the Covenant of Good Faith and Fair Dealing**

5 236. All of the above Paragraphs of this Complaint are hereby incorporated by
6 reference as though fully set forth herein.

7 237. In each and every mortgage note signed by the Plaintiffs, and in each and every
8 mortgage instrument signed by the Plaintiffs in favor of the Defendants, is implied a covenant
9 of good faith and fair dealing between the parties.

10 238. The implied obligation encompasses any promises which a reasonable person in
11 Plaintiffs' position would be justified in understanding was included in the parties' agreement.

12 239. The Defendants have breached that covenant of good faith and fair dealing by
13 intentionally and/or negligently misrepresenting or omitting to disclose material facts that
14 would have been pertinent to those Plaintiff's decisions to enter into transactions with the
15 Defendants.

16 240. As a consequence of the breaches of the covenant of good faith and fair dealing
17 by the Defendants, the Plaintiffs have been deprived of the right to receive the benefits under
18 those loan agreements, to-wit; they have been stripped of the value and equity in their homes as
19 a consequence.

20 241. Inclusive of all recoverable damages and restitution and costs and attorney fees,
21 each plaintiff has sustained damage restitution in the sum of more than \$75,000.00.

22 242. Plaintiffs allege that each of the wrongful acts or omissions described in this
23 Cause of Action was either performed by each Defendant herein, named or unnamed, or
24 ratified and adopted by each Defendant after its occurrence. Further, those Defendants that did
25

1 not actively perform the acts or omissions described here did affirmatively aid and abet the
2 other Defendants in the performance of such acts, or omissions, before, during or after the fact.

3 243. Finally, each Defendant herein, named or unnamed, did knowingly derive some
4 form of profit or benefit from the acts and omissions described herein. All Defendants agreed
5 to work together in the conspiracy and/or joint enterprise described in this paragraph in the
6 manner set forth herein. Accordingly, each Defendant, named or unnamed, should be held
7 liable for the acts and omissions complained of.

8 TENTH CAUSE OF ACTION

9 Unjust Enrichment

10 244. All of the above Paragraphs of this Complaint are hereby incorporated by
11 reference as thought fully forth herein.

12 245. Through their conduct as described herein, all Defendants herein were unjustly
13 enriched at the expense of each Plaintiff and by taking his or her money under false pretenses
14 and by ultimately foreclosing or attempting to foreclose upon the homes of the Plaintiffs
15 without legal authority to do so.

16 246. To permit the Defendants to retain their unjust gains would be against equity
17 and good conscience, and would ratify the illegal actions taken by the Defendant to the
18 detriment of the Plaintiffs.

19 247. Here, in order to avoid the unjust enrichment of the Defendants, each Defendant
20 should be ordered to pay back to each Plaintiff any and all monies unjustly received from him
21 or her. All inclusive, no Plaintiff herein has suffered damages greater than \$75,000.00.

22 248. Plaintiffs allege that each of the wrongful acts or omissions described above
23 was performed by each Defendant herein, named or unnamed, or ratified and adopted by each
24 Defendant after it occurrence. Further, those Defendants that did not actively perform the acts
25

1 or omissions described here did affirmatively aid and abet the other Defendants in the
2 performance of such acts of omissions, before, during or after the fact.

3 249. Finally, each Defendant herein, named or unnamed, did knowingly derive some
4 form of profit or benefit from the acts and omissions described herein. All Defendants agreed
5 to work together in the conspiracy and/or joint enterprise described in this paragraph in the
6 manner set forth above. Accordingly, each Defendant, named or unnamed, should be held
7 liable for the acts and omissions complained of.

8
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment against Defendants, jointly and severally,
11 and each of them as follows and as set forth in each cause of action:

- 12 1. General and special damages according to proof;
- 13 2. Punitive damages according to proof;
- 14 3. Statutory relief under the specific statutes cited above;
- 15 4. Restitution damages according to proof;
- 16 5. Pre- and post-judgment interest; and
- 17 6. Attorney fees as authorized and provided for by statute, contract or otherwise;
- 18 and
- 19 7. On all causes of action, for such other and further relief as this Court may deem
20 just and proper so that each Plaintiff shall recover more than \$75,000.00 in total
21 monetary damages and that each Plaintiff shall receive a judicial determination
22 that his or her mortgage lien(s) at issue herein as alleged to exist by Defendants
23 is *ab initio*.
24
25

Respectfully submitted,

OF COUNSEL:

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Appearing in Hawaii Jurisdiction Pro Hac Vice
JURY DEMAND

Plaintiffs demand that this matter be tried to a jury as permitted by law.